

- 4 -

Better *et al.*
Appl. No. 09/610,838**Remarks****1. The status of the claims**

Claims 1 and 4-17 are pending in this application. Reconsideration and entry of the above amendments is respectfully requested.

2. The amendments

No new matter has been added by the amendments.

Claim 2 has been canceled in view of claim 2 of U.S. 5,744,580, the scope of which is believed to be identical.

Claim 3 has been canceled in view of claim 3 of U.S. 5,744,580, the scope of which is believed to be identical.

The remaining amendments have been made to correct the claim dependencies in view of the cancellation of claims 2 and 3.

a. The rejection under the judicially created doctrine of obviousness type double patenting over U.S. 5,837,491

On Office Action page 5, claims 1-17 are rejected under the judicially created doctrine of obviousness type double patenting over claims 1-3 of U.S. 5,837,491 (herein "the '491 patent"). Applicants respectfully traverse this rejection.

Without acquiescing to the obviousness analysis in regard to the remaining part of the rejection, and as mentioned in Applicants' previous reply, solely in the interests of advancing

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- 5 -

Better *et al.*
Appl. No. 09/610,838

prosecution in this matter, submitted herewith is a terminal disclaimer. Accordingly, this rejection is believed moot.

b. *The rejection under the judicially created doctrine of obviousness type double patenting over U.S. 6,146,850*

On Office Action page 5, claims 1-17 are rejected under the judicially created doctrine of obviousness type double patenting over claims 1-3 of U.S. 6,146,850 (herein "the '850 patent"). Applicants respectfully traverse this rejection.

Without acquiescing to the obviousness analysis in regard to the remaining part of the rejection, and as mentioned in Applicants' previous reply, solely in the interests of advancing prosecution in this matter, submitted herewith is a terminal disclaimer. Accordingly, this rejection is believed moot.

c. *The rejection under the judicially created doctrine of obviousness type double patenting over U.S. 5,756,699*

On Office Action page 5, claims 1-17 are rejected under the judicially created doctrine of obviousness type double patenting over claims 1-3 of U.S. 5,756,699 (herein "the '699 patent"). Applicants respectfully traverse this rejection.

Without acquiescing to the obviousness analysis in regard to the remaining part of the rejection, and as mentioned in Applicants' previous reply, solely in the interests of advancing prosecution in this matter, submitted herewith is a terminal disclaimer. Accordingly, this rejection is believed moot.

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- 6 -

Better *et al.*
Appl. No. 09/610,838

d. *U.S. Appln. No. 09/711,485*

Applicants' co-pending application no. 09/711,485 is also directed to fusion proteins. Without acquiescing to any obviousness analysis and solely in the interests of advancing prosecution in this matter, Applicants submit herewith a terminal disclaimer.

Conclusion

In view of the discussion above it is believed that the present application is now in condition for immediate allowance. Early notice to this effect is earnestly solicited. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Certification of Facsimile Transmission

I hereby certify that this paper is being facsimile transmitted
to the Patent and Trademark Office on the date shown below.

Michele A. Cimballa, Registration No. 33, 851

Date: 11/20/01

Respectfully submitted,

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- 7 -

Better *et al.*
Appl. No. 09/610,838Version with markings to show changes made.

Please cancel claims 2 and 3 without prejudice or disclaimer.

Please amend the claims as follows:

6. The fusion protein of any one of claims 1, 4 and 5, [claim 1-5] wherein said targeting sequence is an antibody.

7. The fusion protein of any one of claims 1, 4 and 5, [1-5] wherein said targeting sequence is an antigen-binding portion of an antibody.

15. The fusion protein of any one of claims 1, 4 and 5, [1-5] wherein said targeting sequence is a hormone.

16. The fusion protein of any one of claims 1, 4 and 5, [1-5] wherein said targeting sequence is an antibody.

17. The fusion protein of any one of claims 1, 4 and 5, [1-5] wherein said targeting sequence is a growth factor.

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